Supreme Court, U. S.
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In The

Supreme Court of the United States

OCTOBER TERM, 1974

No. 74-1044

COMMONWEALTH OF MASSACHUSETTS BOARD OF RETIREMENT; ROBERT Q. CRANE, ANGELO AMATO and J. JOSEPH MALONEY, JR., as They are Members of the COMMONWEALTH OF MASSACHUSETTS BOARD OF RETIREMENT; JAMES W. CALLANAN, Executive Secretary of the COMMONWEALTH OF MASSACHUSETTS BOARD OF RETIREMENT; and JOHN F. KEHOE, JR., COMMISSIONER OF PUBLIC SAFETY OF THE COMMONWEALTH OF MASSACHUSETTS,

Appellants,

v.

ROBERT D. MURGIA,

Appellee.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

JOINT SUPPLEMENTAL MEMORANDUM

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JOINT SUPPLEMENTAL MEMORANDUM

Pursuant to Supreme Court Rule 24(5) the parties join in filing this memorandum containing data supplementing that presently available to the Court.

I. *Change In Organizational Structure of the Massachusetts State Police*

Chapter 22, Section 9P of the Massachusetts General Laws was amended by an emergency act of the Massachusetts General Court. Subsequently, Rules and Regulations were promulgated to aid in implementing the changes introduced by the amendment.

The effect of these changes is to modify the structure of the Division of State Police within the Department of Public Safety.

Pertinent portions of the Statute and Rules and Regulations governing the structure of the Division of State Police are set out below in both original and amended form to illustrate the changes which have occurred.

STATUTE

§ 9P. Division of state police; promotions; filling vacancies

Any vacancy that occurs in the grade of lieutenant colonel and executive officer of the uniformed branch of the division of state police shall be filled by the commissioner from the next two subordinate grades, and any vacancy that occurs in the grade of major and adjutant from the next subordinate grade. (Original)

§ 9P. Division of state police; office of investigation and intelligence created; bureau of investigative services; promotions; filling vacancies

Any vacancy that occurs in the grade of deputy superintendent in the division of state police shall be filled by the commissioner from the grades of lieutenant colonel or major.

Any vacancy that occurs in the grade of lieutenant colonel, other than in the office of investigation and intelligence, shall be filled by the commissioner from officers appointed to the state police under the provisions of section nine A and who hold the grade of major or captain.

There shall be created in the division of state police an office of investigation and intelligence under the direction of a lieutenant colonel who was appointed to the state police under the provisions of section six. Any vacancy which occurs in the grade of lieutenant colonel in the office of investigation and intelligence shall be filled by the commissioner from officers appointed to the state police under the provisions of section six and who hold the grade of major or captain of detectives.

Any vacancy that occurs in the grade of major, other than in the bureau of investigative services, shall be filled by the commissioner from officers appointed to the state police under the provisions of section nine A and who hold the rank of captain.

Any vacancy that occurs in the grade of major in the bureau of investigative services shall be filled by the commissioner from the grades of captain of detectives or detective lieutenant inspectors appointed to the state police under the provisions of section six. (As Amended)

RULES AND REGULATIONS

1.1 The term "Uniformed Branch" shall mean that part of the State Police established under Chapter 22, Section 9A, of the General Laws, and any amendments thereto. (Original)

1.1 The term "State Police" shall mean that Division of the Department of Public Safety established under Chapter 22, Section 9A, of the General Laws, and any amendments thereto. (As Amended)

3.1 The Uniformed Branch shall consist of the following organizational classification (sic):

Office of the Commissioner
Office of the Executive Officer
Bureau of Eastern Field Operations
Bureau of Western Field Operations
Bureau of Investigative Services
Bureau of Administrative Services
Bureau of Technical Services (Original)

3.1 The Division of State Police shall consist of the following organizational classifications:

Office of the Commissioner and Superintendent
Office of the Deputy Superintendent
Office of Field Operations
Office of Investigation and Intelligence Operations
Office of Staff Operations
Bureau of Eastern Field Services
Bureau of Western Field Services
Bureau of Investigative Services
Bureau of Administrative Services
Bureau of Technical Services (As Amended)

4.1 The order or ranks and grades of the Uniformed Branch shall be as follows:

Colonel
Lieutenant Colonel
Major
Captain
Lieutenant
Staff Sergeant
Sergeant
Corporal
Trooper
Supervisor of State Policewomen
Policewoman (Original)

4.1 The order or ranks and grades of the State Police shall be as follows:

Superintendent
Deputy Superintendent
Lieutenant Colonel
Major
Detective Captain
Captain
Detective Lieutenant
Lieutenant
Staff Sergeant
Sergeant
Corporal
Trooper (As Amended)

1.3 The term "Commissioned Officer" shall include the following ranks:

Colonel
Lieutenant Colonel
Major
Captain
Lieutenant (Original)

1.3 The term "Commissioned Officer" shall include the following ranks:

Superintendent
Deputy Superintendent
Lieutenant Colonel
Major
Detective Captain
Captain
Detective Lieutenant
Lieutenant (As Amended)

5.19 "Bureau of Investigative Services."

A commissioned officer shall be the commander of the Bureau of Investigative Services. He shall be responsible for the administration of all sections and units assigned to the Bureau and shall be accountable to the Executive Officer for all his official activities. He shall plan, direct and coordinate all criminal investigation programs and intelligence operations assigned to his command and shall coordinate the activities of the Bureau with, and lend assistance to, all law enforcement agencies of the Commonwealth or its subdivisions.

He shall have command of the following Sections within the Bureau:

Criminal Information Bureau (Section)
Special Service Section (Original)

5.20 "Bureau of Investigative Services."

A commissioned officer shall be the commander of the Bureau of Investigative Services. He shall be responsible for the administration of all sections and units assigned to the Bureau and shall be accountable to the Investigation and Intelligence Operations Officer for all his official activities. He shall plan, direct, and coordinate all criminal investigation programs and intelligence operations assigned to his command and shall coordinate the activities of the Bureau with, and lend assistance to, all law enforcement agencies of the Commonwealth or its subdivisions.

He shall have command of the following Sections within the Bureau:

Detective Section
Special Service Section
Narcotics Section (As Amended)

5.20 "Commanding Officer, Criminal Information Bureau (Section)"

A commissioned officer shall be in charge of the Criminal Information Bureau (Section). He shall be accountable to the Bureau Commander. His duties and responsibilities shall include the supervision of the following activities:

(a) Said Bureau shall collect by investigation of its own and by receipt from other law-enforcement agencies, information concerning organized crime, organized illegal gambling, and other illegal activities generally described as rackets, including information as to the identity and doings of persons who engage in, promote, operate or participate in such activities, and of persons arrested for the illegal use, sale or possession of harmful drugs or narcotics.

(b) Said Bureau shall maintain files of all such information which it collects and receives, and shall serve as a clearing house of intelligence for all law enforcement agencies within the Commonwealth concerning such activities and such persons, and may provide to and receive from similar agencies outside the Commonwealth any such information. Any police department of the Commonwealth, or any of its political subdivisions, may, by request, in the form and manner prescribed by said Bureau, receive such information as is in the files of said Bureau concerning such activities and such persons in which said police department has an official interest. The clearing house functions of this Bureau shall constitute a cooperative relationship between said Bureau, and said police departments; and if in the discretion of the head of said Bureau, responding to such request for information might interfere with an investigation being carried on by some other department or by said Bureau, he may, with the approval of the Commissioner, deny the request.

(c) Said Bureau shall from time to time advise the local police departments of new schemes or rackets which may come to its attention, and of new devices, techniques, methods of operation, and other matters of interest relating to such activities and such persons, so that the police of the Commonwealth and its political subdivisions shall be better informed and thus better able to enforce the laws with respect to such activities and such persons.

(d) The clerk of any court in which a person is convicted of a crime involving gaming of any kind, drug and narcotic violations, the sale or possession of pornographic

literature or the improper solicitation or use of funds for charitable purposes, shall forthwith report such conviction to said Bureau. The probation officer of said court shall furnish to the clerk a description of any person so convicted, which shall be on a form prescribed by the Commissioner of Public Safety.

5.21 "Commanding Officer, Detective Section."
(As Amended)

A commissioned officer shall be in charge of the Detective Section and all units assigned to his command. He shall be responsible to the Bureau Commander. His duties and responsibilities shall include:

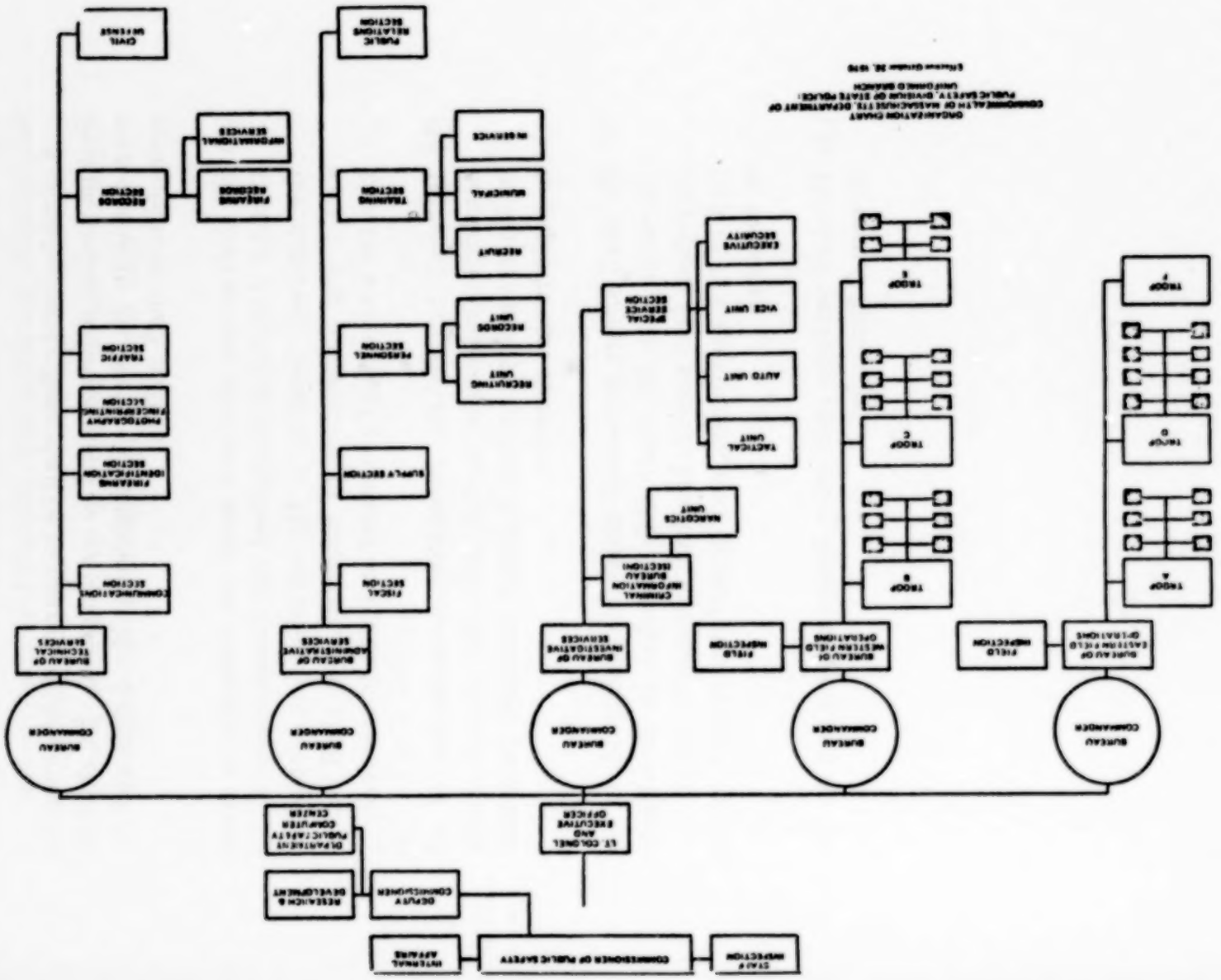
(a) He shall assign personnel under his command to assist District Attorneys throughout the Commonwealth and the Attorney General, in the investigation, detection, arrest, and prosecution of criminals, and shall supervise the activities of personnel assigned to this task.

(b) He shall initiate the immediate investigation of all homicides, suspicious deaths, and other serious crimes in Massachusetts, and shall assign adequate personnel to perform this function.

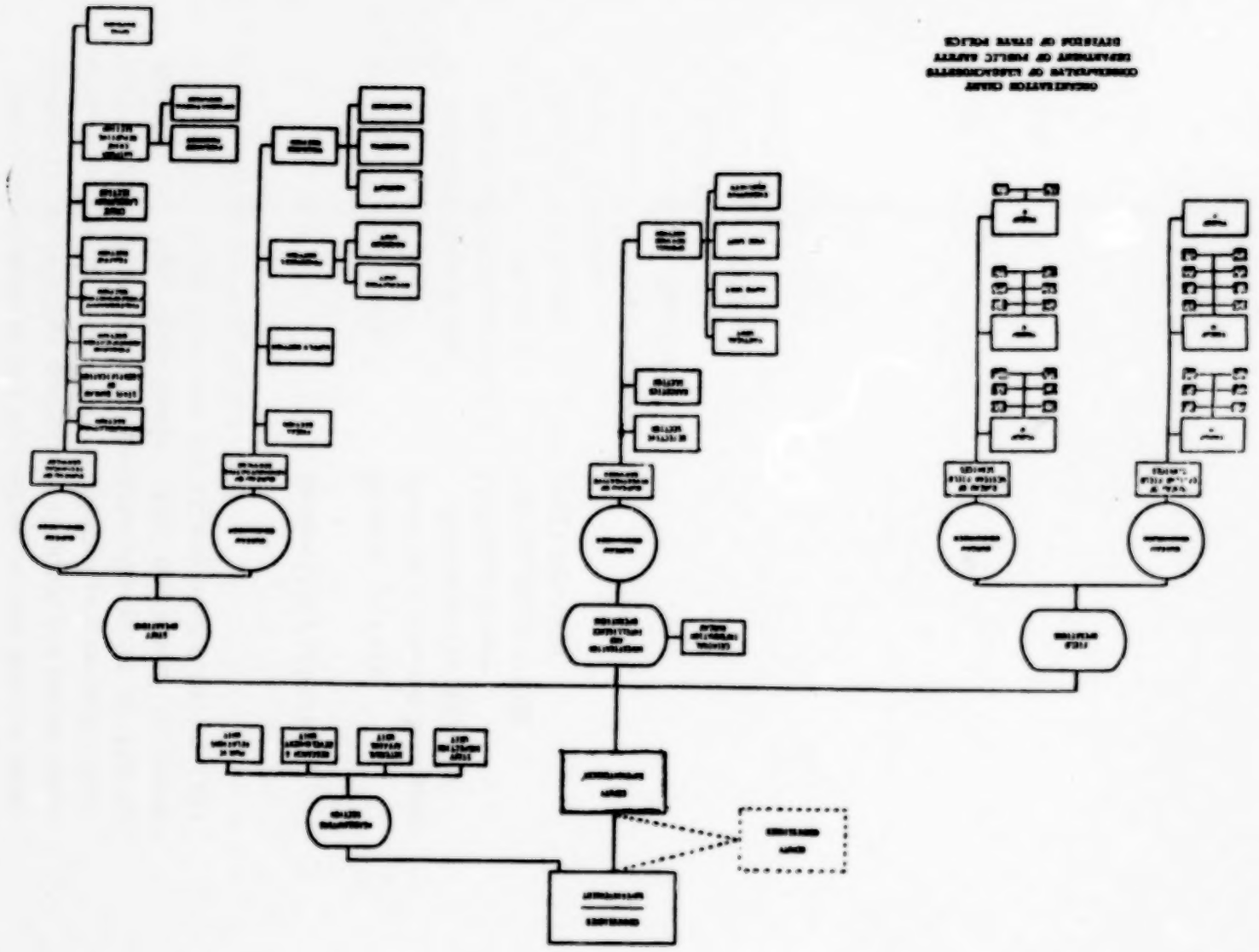
(c) He shall assign personnel under his command, in cooperation with the State Fire Marshal, to investigate suspicious fires and fire hazards, to assist in the promotion of fire prevention, and to perform related duties as required.

(d) He shall perform such other duties as required by the Bureau Commander.

(Original)



(As Amended)



II. *Employment of Robert D. Murgia*

Since the opinion of the district court was handed down Robert D. Murgia has materially changed his employment situation. Murgia is presently employed as a Security Manager in the Westminster, Massachusetts plant of Digital Equipment, Inc. He began this seventeen thousand ($17,000.00) dollar per year job supervising a twelve (12) man security force in August, 1975.

Respectfully submitted,

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